

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
DEL RIO DIVISION**

**RAFAEL G. CASTRO AND
NATALIA DE LA GARZA**

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CIVIL ACTION NO. _____

V.

**DILLARD TRAVIS ONEAL AND
EAN HOLDINGS, LLC
D/B/A ENTERPRISE RENT-A-CAR,**

JURY DEMANDED

DEFENDANT'S NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF THE UNITED STATES DISTRICT COURT:

Defendant, Travis O'Neal Dillard, improperly named and sued as Dillard Travis O'Neal, files this Notice of Removal, pursuant to 28 U.S.C. §§ 1332(a) and 1441(b) and will show:

1. Plaintiffs Rafael G. Castro and Natalie De La Garza's civil suit against Defendants Travis O'Neal Dillard, improperly named and sued as Dillard Travis O'Neal and EAN Holdings, LLC is removable to this Court. Complete diversity exists between Plaintiff and all Defendants, the amount in controversy exceeds \$75,000.00, exclusive of interest and costs, and this removal is being filed within the time period permitted under §1441(b).

2. On August 9, 2019, Plaintiffs filed Cause No. 19-08-37727-MCVAJA, styled *Rafael G. Castro and Natalia De La Garza v. Dillard Travis Oneal and EAN Holdings, LLC D/B/A Enterprise Rent-A-Car* in the 365th Judicial District Court of Maverick County, Texas.

3. Complete diversity exists between Plaintiffs and all Defendants as required by 28 U.S.C. § 1332(a):

A. Plaintiffs are citizens of Maverick County, Texas.¹

¹ See ¶ 2.1 of Plaintiffs' Original Petition.

B. Defendant Travis O’Neal Dillard, improperly named and sued as Dillard Travis O’Neal, is a citizen of Bullock County, Alabama.²

C. EAN Holdings, LLC is not a citizen of Texas. The citizenship of a limited liability company is determined by the citizenship of its members. *See Harvey v. Grey Wolf Drilling Co.*, 542 F.3d 1077, 1080 (5th Cir. 2008). EAN Holdings, LLC is a foreign limited liability company organized and existing under the laws of Delaware. EAN Holdings, LLC’s sole member is Enterprise Holdings, Inc., a Missouri corporation with its principal place of business in Missouri. EAN Holdings, LLC is not, and was not at the time of the filing, a citizen of the State of Texas within the meaning of the Acts of Congress relating to the removal of actions. 28 U.S.C. § 1332(c)(1).

4. In their petition, Plaintiffs contend that “[e]ach Plaintiff seeks only monetary relief of less than \$75,000.00, including damages of any kind.”³ However, on August 29, 2019, Plaintiffs served their Request for Disclosure responses. These responses included documentation of Plaintiffs’ current medical expenses incurred (\$12,483.97 for Plaintiff Rafael Castro and \$12,312.92 for Plaintiff Natalie De La Garza) as well as recommendations for future medical treatment, including a shoulder surgery for **both Plaintiffs** at a cost of \$35,000.00 each and cervical spine surgery for **both Plaintiffs** at a cost of \$75,000.00 each.⁴

5. This Notice of Removal is filed within 30 days after the Defendant Travis O’Neal Dillard, improperly named and sued as Dillard Travis O’Neal was served with Plaintiffs’ Request for Disclosure Responses in accordance with 28 U.S.C. § 1446(b)(1).

6. This Notice of Removal also is being filed within 1 year after the commencement of the action in accordance with 28 U.S.C. § 1446(c)(1).

7. Plaintiff’s Request for Disclosure responses, and the medical and billing records produced therein, make it clear that the amount in controversy is in excess of \$75,000.00, as required by 28 U.S.C. § 1332(a).⁵

² See ¶ 2.2 of Plaintiffs’ Original Petition.

³ See ¶ 1.2 of Plaintiffs’ Original Petition.

⁴ See Exhibit “A” – Plaintiff’s Responses to Defendant’s Request for Disclosure at p. 26, 31, 61, and 68.

⁵ *Id.*

8. Defendant files with this Federal Court a copy of all process, pleadings, and orders as required by 28 U.S.C. § 1446(a):

| <u>Exhibit Number</u> | <u>Description</u> |
|-----------------------|--|
| 1. | Plaintiffs' Original Petition; |
| 2. | Affidavit of Service; |
| 3. | Affidavit of Service; |
| 4. | Certificate of Last Known Address; |
| 5. | Sailor and Soldier's Affidavit |
| 6. | Certificate of Last Known Address; |
| 7. | Sailor and Soldier Affidavits; |
| 8. | Motion for Default Judgment; |
| 9. | Defendant Dillard Travis O'Neal's Original Answer; |
| 10. | Defendant EAN Holdings, LLC's Original Answer; |
| 11. | Defendant EAN Holdings, LLC's Request for a Jury Trial |
| 12. | Notice of Appearance of Counsel; and |
| 13. | State Court docket sheet. |

9. There is no opposition from any Defendant on removing this case to Federal Court.

10. Defendant will serve Plaintiff with a copy of this Notice of Removal and will file a Notice with the Clerk of the District Court of Maverick County, Texas as required by 28 U.S.C. § 1446(d).

11. Plaintiff demanded a jury in the State Court action. Defendants also demanded a jury.

12. THEREFORE, Defendant Travis O'Neal Dillard, improperly named and sued as Dillard Travis O'Neal removes Cause No. 19-08-37727-MCVAJA, styled *Rafael G. Castro and Natalia De La Garza v. Dillard Travis Oneal and EAN Holdings, LLC D/B/A Enterprise Rent-A-Car* in the 365th Judicial District Court of Maverick County, Texas to the United States District Court for the Western District of Texas – Del Rio Division, pursuant to the statutes and in conformance with the requirements set forth in 28 U.S.C. §§ 1332, 1441, and 1446.

Respectfully submitted,

BENJAMIN, VANA, MARTINEZ & CANO, LLP

By: /s/Dan Joe Vana
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**ATTORNEYS FOR DEFENDANT,
DILLARD TRAVIS ONEAL**

CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of November, 2019, I electronically filed the foregoing with the Clerk of the Court using CM/ECF system which will send notification of such filing to the following and, if such person is not a member of the CM/ECF system, then service will be made in accordance with Rule 5(b) of the Federal Rules of Civil Procedure.

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